

Senate File 240

AN ACT

RELATING TO MATTERS UNDER THE PURVIEW OF THE ALCOHOLIC
BEVERAGES DIVISION OF THE DEPARTMENT OF COMMERCE, AND MAKING
PENALTIES APPLICABLE.

BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF IOWA:

Section 1. Section 22.7, subsection 24, Code 2011, is amended by striking the subsection.

Sec. 2. Section 123.3, Code 2011, is amended by adding the following new subsection:

NEW SUBSECTION. 014A. "*Grape brandy*" means brandy produced by the distillation of fermented grapes or grape juice.

Sec. 3. Section 123.41, Code 2011, is amended to read as follows:

123.41 Manufacturer's license.

1. Upon application in the prescribed form and accompanied by a fee of three hundred fifty dollars, the administrator may in accordance with this chapter grant and issue a license, valid for a one-year period after date of issuance, to a

manufacturer which shall allow the manufacture, storage, and wholesale disposition and sale of alcoholic liquors to the division and to customers outside of the state.

2. As a condition precedent to the approval and granting of a manufacturer's license, an applicant shall file a statement under oath with the division that the applicant is a bona fide manufacturer of alcoholic liquors, and that the applicant will faithfully observe and comply with all laws, rules, and regulations governing the manufacture and sale of alcoholic liquor.

2. 3. A person who holds an experimental distilled spirits plant permit or its equivalent issued by the federal bureau of alcohol, tobacco and firearms alcohol and tobacco tax and trade bureau of the United States department of the treasury may produce alcohol for use as fuel without obtaining a manufacturer's license from the division.

4. A violation of the requirements of this section shall subject the licensee to the general penalties provided in this chapter and shall constitute grounds for imposition of a civil penalty or suspension or revocation of the license after notice and opportunity for a hearing pursuant to section 123.39 and chapter 17A.

Sec. 4. Section 123.43A, subsection 8, Code 2011, is amended to read as follows:

8. Micro-distilled spirits purchased at a micro-distillery shall not be consumed ~~within three hundred feet of a micro-distillery or~~ on any property owned, operated, or controlled by a micro-distillery.

Sec. 5. NEW SECTION. **123.46A Delivery of alcoholic beverages by retailers.**

1. Licensees and permittees authorized to sell alcoholic liquor, wine, or beer in original unopened containers for consumption off the licensed premises may deliver alcoholic liquor, wine, or beer to a home or other designated location in this state. Deliveries shall be limited to alcoholic beverages authorized by the licensee's or permittee's license or permit.

2. All deliveries of alcoholic liquor, wine, or beer shall be subject to the following requirements and restrictions:

a. Payment for the alcoholic liquor, wine, or beer shall be received on the licensed premises at the time of order.

b. Alcoholic liquor, wine, or beer delivered to a person shall be for personal use and not for resale.

c. Deliveries shall only be made to persons in this state

who are twenty-one years of age or older.

d. Deliveries shall not be made to a person who is intoxicated or is simulating intoxication.

e. Deliveries shall occur between 6:00 a.m. and 10:00 p.m. Monday through Saturday, and between 8:00 a.m. and 10:00 p.m. Sunday.

f. Delivery of alcoholic liquor, wine, or beer shall be made by the licensee or permittee, or the licensee's or permittee's employee, and not by a third party.

g. Delivery personnel shall be twenty-one years of age or older.

h. Deliveries shall be made in a vehicle owned, leased, or under the control of the licensee or permittee.

i. Valid proof of the recipient's identity and age shall be obtained at the time of delivery, and the signature of a person twenty-one years of age or older shall be obtained as a condition of delivery.

j. Licensees and permittees shall maintain records of deliveries which include the quantity delivered, the recipient's name and address, and the signature of the recipient of the alcoholic liquor, wine, or beer. The records shall be maintained on the licensed premises for a period of three years.

3. A violation of this section or any other provision of this chapter shall subject the licensee or permittee to the penalty provisions of section 123.39.

4. Nothing in this section shall impact the direct shipment of wine as regulated by section 123.187.

Sec. 6. Section 123.50, Code 2011, is amended by adding the following new subsection:

NEW SUBSECTION. 5. If an employee of a licensee or permittee violates section 123.49, subsection 2, paragraph "h", the licensee or permittee shall not be assessed a penalty under subsection 3, and the violation shall be deemed not to be a violation of section 123.49, subsection 2, paragraph "h", for the purpose of determining the number of violations for which a penalty may be assessed pursuant to subsection 3, if the employee holds a valid certificate of completion of the alcohol compliance employee training program pursuant to section 123.50A at the time of the violation, and if the violation involves selling, giving, or otherwise supplying any alcoholic beverage, wine, or beer to a person between the ages of eighteen and twenty years of age. A violation

involving a person under the age of eighteen years of age shall not qualify for the bar against assessment of a penalty pursuant to subsection 3, for a violation of subsection 123.49, subsection 2, paragraph "h". A licensee or permittee may assert only once in a four-year period the bar under this subsection against assessment of a penalty pursuant to subsection 3, for a violation of subsection 123.49, subsection 2, paragraph "h", that takes place at the same place of business location.

Sec. 7. NEW SECTION. 123.50A Alcohol compliance employee training program.

1. If sufficient funding is appropriated, the division shall develop an alcohol compliance employee training program, not to exceed two hours in length for employees and prospective employees of licensees and permittees, to inform the employees about state and federal liquor laws and regulations regarding the sale of alcoholic liquor, wine, or beer to persons under legal age, and compliance with and the importance of laws regarding the sale of alcoholic liquor, wine, or beer to persons under legal age. In developing the alcohol compliance employee training program, the division may consult with stakeholders who have expertise in the laws and regulations regarding the sale of alcoholic liquor, wine, or beer to persons under legal age.

2. The alcohol compliance employee training program shall be made available to employees and prospective employees of licensees and permittees at no cost to the employee, the prospective employee, or the licensee or permittee, and in a manner which is as convenient and accessible to the extent practicable throughout the state so as to encourage attendance. Contingent upon the availability of specified funds for provision of the program, the division shall schedule the program on at least a monthly basis and the program shall be available at a location in at least a majority of counties.

3. Upon completion of the alcohol compliance employee training program, an employee or prospective employee shall receive a certificate of completion, which shall be valid for a period of two years, unless the employee or prospective employee is convicted of a violation of section 123.49, subsection 2, paragraph "h", in which case the certificate shall be void.

4. The division shall also offer periodic continuing employee training and recertification for employees who have completed initial training and received an initial certificate

of completion as part of the alcohol compliance employee training program.

Sec. 8. Section 123.56, subsections 1, 2, and 3, Code 2011, are amended to read as follows:

1. Subject to rules of the division, manufacturers of native wines from grapes, cherries, other fruits or other fruit juices, vegetables, vegetable juices, dandelions, clover, honey, or any combination of these ingredients, holding a class "A" wine permit as required by this chapter, may sell, keep, or offer for sale and deliver the wine. ~~Sales may be made at retail for off-premises consumption when sold on the premises of the manufacturer, or in a retail establishment operated by the manufacturer. Sales may also be made to class "A" or retail wine permittees or liquor control licensees as authorized by the class "A" wine permit.~~ Notwithstanding any other provision of this chapter, manufacturers of native wine may purchase and possess grape brandy from the division for the sole purpose of manufacturing wine.

2. Native wine may be sold at retail for off-premises consumption when sold on the premises of the manufacturer, or in a retail establishment operated by the manufacturer. Sales may also be made to class "A" or retail wine permittees or liquor control licensees as authorized by the class "A" wine permit. A manufacturer of native wines shall not sell the wines other than as permitted in this chapter and shall not allow wine sold to be consumed upon the premises of the manufacturer. However, prior to sale native wines may be sampled on the premises where made, when no charge is made for the sampling. A person may manufacture native wine for consumption on the manufacturer's premises, when the wine or any part of it is not manufactured for sale.

3. A manufacturer of native wines may ship wine in closed containers to individual purchasers inside ~~and outside~~ this state by obtaining a wine direct shipper license pursuant to section 123.187. ~~The manufacturer shall label the package containing the wine with the words "deliver to adults only".~~

Sec. 9. Section 123.57, Code 2011, is amended to read as follows:

123.57 Examination of accounts.

The financial condition and transactions of all offices, departments, warehouses, and depots of the division shall be examined at least once each year by the state auditor and at shorter periods if requested by the administrator, governor,

commission, or ~~executive council~~ the general assembly's
standing committees on government oversight.

Sec. 10. REPEAL. Section 123.43, Code 2011, is repealed.

JOHN P. KIBBIE
President of the Senate

KRAIG PAULSEN
Speaker of the House

I hereby certify that this bill originated in the Senate and
is known as Senate File 240, Eighty-fourth General Assembly.

MICHAEL E. MARSHALL
Secretary of the Senate

Approved _____, 2011

TERRY E. BRANSTAD
Governor